

## RELEASE AND HOLD HARMLESS AGREEMENT

### I

FOR THE SOLE CONSIDERATION of the sum of seventy-five thousand dollars (\$75,000) paid to the Client Trust Account of The Albies Stark & Guerrero Firm, the undersigned Erik Hoofnagle hereby releases and forever discharges the City of Portland, its agents, officers, employees, officials, and all other persons, firms, corporations or other entities liable or who might be claimed to be liable, including but not limited to, Brent Taylor (hereafter "the City of Portland") from any and all claims for damages and/or injuries from or relating to an incident during a protest occurring on or about July 4, 2020, in downtown Portland, Oregon.

### II

IT IS UNDERSTOOD AND AGREED that the payment made to the undersigned under this agreement is not to be construed as an admission of liability. The City of Portland expressly denies liability to the undersigned, or any other person for injuries or damages arising out of the aforementioned incident.

### III

IT IS FURTHER UNDERSTOOD AND AGREED that this agreement releases the City of Portland from any and all claims arising out of the above-described causes of action, and claims against the proceeds of said action including, but not limited to, medical liens, hospital liens, Social Security Administration liens, Medicare liens, workers' compensation liens, liens of the State of Oregon Department of Human Services and all other liens against the above-described causes of action at the time of execution hereof.

### IV

A. The Parties also acknowledge any Medicare and Medicaid interest payable under this Agreement shall be the sole and exclusive responsibility of Erik Hoofnagle. Erik Hoofnagle agrees that the duties stated in this paragraph are non-delegable and failure to perform such duties shall provide the City of Portland with a right to recover any monies paid due to the failure to satisfy Medicare's interests, including any additional expenses incurred and attorney fees. The Parties acknowledge and understand that the City of Portland will report any payment to a Medicare beneficiary in settlement of a claim under a liability insurance policy or self-insurance to Medicare (CMS).

B. Erik Hoofnagle agrees and warrants that he will satisfy any and all applicable Medicare, Medicaid, and private insurer liens and third-party claims prior to receiving any portion of the settlement payment set forth in section I from his counsel. With respect to the interests of Medicare and the Centers for Medicare and Medicaid Services ("CMS"), Erik Hoofnagle represents and warrants that he has received notice from Medicare/CMS asserting the rights to no conditional payments relating to the past medical care and treatment of Erik Hoofnagle. If Erik Hoofnagle fails to satisfy such liens, Erik Hoofnagle shall defend and indemnify the City of Portland, its agents, officers, employees, officials, and all other persons, firms, corporations or other entities from any and all claims arising out of such failure.

C. In consideration of the payments set forth in the Settlement Agreement, Erik Hoofnagle waives, releases, and forever discharges the City of Portland from any obligations for any claim, known or unknown, arising out of the failure of the City of Portland to provide for a primary payment or appropriate reimbursement pursuant to 42 U.S.C. § 1395y(b)(3)(A).

D. Erik Hoofnagle understands this settlement may impact, limit or preclude his right or ability to receive future Medicare/CMS benefits arising out of the injuries alleged, and nevertheless wishes to proceed with the settlement.

E. The parties have attempted to resolve this matter in compliance with both state and federal law, and have considered Medicare's interests. Erik Hoofnagle has concluded that a Medicare Set-Aside ("MSA") is not required or appropriate in this matter. It is not the intention of the parties to shift responsibility for payment of future medical expenses to Medicare pursuant to 42 U.S.C. § 1395y(b) or the Federal Government.

F. Should any person or entity not a party hereto challenge the validity of this Settlement Agreement, or any term thereof, pursue recovery of monies from the City of Portland or bring a claim or claims against the City of Portland arising out of 42 U.S.C. § 1395y(b) related to payment for items or services related to the injuries claimed in this action, Erik Hoofnagle shall provide to the City of Portland such cooperation and assistance as the City of Portland may reasonably request and/or require in order to resist such a challenge or defend such a claim.

V

THE UNDERSIGNED AGREES AND WARRANTS that all expenses incurred to date or which will be incurred in the future, which are related in any way to claims being released herein, have either been paid or will be paid from the proceeds of this settlement and that Erik Hoofnagle will hold the City of Portland, its agents, employees and assigns harmless from any claim for any such expense(s) whenever incurred and, if any suit is filed against the City of Portland to collect such claim, Erik Hoofnagle will accept the tender of defense of any such claim, defend it at his expense and pay any judgment entered therein and agree to compensate the City of Portland for any expense or liability incurred as a result of the filing of such suit. Erik Hoofnagle warrants that he has full authority to compromise all claims and issues resolved herein.

VI

THE UNDERSIGNED HEREBY DECLARES that he has read this Release and Hold Harmless Agreement and that it is fully understood and voluntarily accepted for the purpose of making a full and complete settlement and compromise of any and all claims arising out of the above-described incident, in whatever legal form or theory he might assert, whether disputed or otherwise, and in particular including, but not limited to, those matters set forth in the complaint entitled:

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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

**ERIK HOOFNAGLE,**

**Case No.: 3:20-cv-01657-AR**

**PLAINTIFF,**

**v.**

**BRENT M. TAYLOR, an individual; CITY  
OF PORTLAND, a municipal corporation;  
SGT. KYLE SMITH, an individual;  
MULTNOMAH COUNTY, a political  
subdivision of the State of Oregon; and  
DOE #1-3, unknown individuals,**

**DEFENDANTS.**

**VII**

IT IS EXPRESSLY UNDERSTOOD AND AGREED that this Release and Hold Harmless Agreement is intended to, and does, cover not only all known losses and damages, but any further losses and damages not now known or anticipated which may later develop or be discovered including all effects and consequences thereof.

**VIII**

THE TERMS SET FORTH HEREIN are contractual and not a mere recital.

**IX**

IT IS FURTHER UNDERSTOOD AND AGREED that this Release and Hold Harmless Agreement releases any and all claims for nondisclosure, fraud or misrepresentation and any and all claims for nondisclosure, fraud or misrepresentation in the inducement of this agreement. Erik Hoofnagle acknowledges he has not relied upon any statements, reports, or representations regarding his rights, claims for damages, facts of the incident, or the nature and extent of damages by the defendants, their agents, representatives, adjusters, attorneys, or any other person or entity hereby released.

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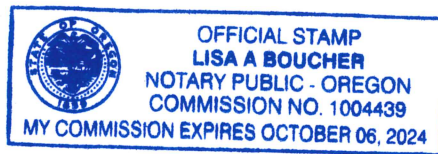
THE UNDERSIGNED FURTHER STIPULATES AND AGREES that the above case shall be dismissed with prejudice and without costs or attorney's fees to any party.

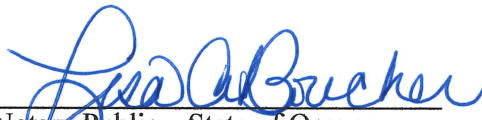
DATED this 10 day of January, 2023.

  
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Erik Hoofnagle

STATE OF OREGON )  
                                  ) ss.  
County of Multnomah )

This instrument was acknowledged before me this 10<sup>th</sup> day of January, 2023, by Erik Hoofnagle.



  
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Notary Public – State of Oregon  
Commission No.: 1004439  
Commission Expiration: Oct. 6, 2024